

TELEPHONE INTERVIEW

On January 14, 2004, the undersigned attorney conducted a telephone interview with Examiner Kim. During the interview, the cited prior art references, U.S. Patent No. 5,495,703 to Kruit et al. was discussed. Also, amendments to claim 1 were discussed. No decision as to the patentability of the amended claims was reached. Additionally, the Examiner stated that on the Office Action Summary Sheet, the box indicating that the action was Final was inadvertently marked and that the present Office Action was non-final.

REMARKS

The undersigned attorney thanks Examiner Kim for his careful review of this patent application. Reconsideration of the present application is respectfully requested in light of the above amendments to the application in view of the following remarks. Prior to entry of this amendment, claims 1 - 6 were pending in the application. Claims 1-6 were rejected. Upon entry of this Response, claim 2 is cancelled. New claims 7 - 11 have been added. Claims 1 and 3 - 11 will be pending in the application.

Claims 1 - 6 Are Not Anticipated By Kruit

In paragraph 1, the Office action rejected claims 1 - 6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,495,703 to Kruit et al. (hereinafter *Kruit*). The Office Action alleged that *Kruit* describes providing a tubular carton with an end opening less than the pitch of the flight bars as shown in figures 13 and 14. The Office Action further alleged that *Kruit* describes the placement of the erected cartons between the flight bars and that the combined end-opening width is equal to the pitch of the flight bars of the packaging machine. The Office action then asserted that *Kruit* description of a blank having multiple sections attached to itself described a plurality of cartons detachably affixed to one another in a collapsed condition.

Kruit describes a process for packaging bottles in a container in two rows in which a first half of a container is formed from a first blank and a second half of the container is formed from an identical blank. The first and second halves of the carton are then placed on a conveyor, in which each half container is placed between a pair of flight bars, such that the width of each half container is equal to the distance between the flight bars. Each half container is then loaded with

bottles and the loaded first and second halves are joined together by connecting a corresponding longitudinal wall portion of each half to one another to form a single container.

The invention of amended claim 1 on the other hand, describes a method for loading cartons into a packaging machine. The method begins by providing a number of substantially tubular cartons, each of which have at least one end opening with a width less than the pitch of the flight bars of the packaging machine. The cartons are first detachably affixing to one another, so that the combined end opening width of the detachably affixed cartons are equal to the pitch of the flight bars of the packaging machine. The detachably affixed cartons are then placed between the flight bars of the packaging machine. The individual cartons are then detached from one another after each of the plurality of cartons have been loaded.

To anticipate a claim, the reference must teach each and every element of the claim. MPEP § 2131. *Kruit* does not teach, describe, or suggest detachably affixing the plurality of cartons to one another, such that the combined end opening width of the detachably affixed cartons are equal to the pitch of the flight bars of the packaging machine, as required by amended claim 1. Rather, *Kruit* describes placing individual half containers between the flight bars, in which the width of each half container is equal to the pitch of the flight bars. Each half container contains two flaps that extend partially into the interior of the half container to ensure that the bottles do not come in contact with one another. The half cartons are loaded with bottles through a via created by the absence of the front wall. The front wall is then folded up and glued in place. Two half containers are then joined to one another by adhere the corresponding longitudinal walls each half container to one another two form a single, double row container. Although the half container described by *Kruit* contains two flaps that extend partially into the interior of the carton and may segment each half container into three partitions, the partitions are not detachably affixed to one another, as required by amended claim 1. Because *Kruit* fails to describe plurality of individual cartons detachably affixed to one another such that the combined width of the individual cartons equal the pitch of the flight bars, as required by amended claim 1 claim 1 is not anticipated by *Kruit*. Therefore, it is respectfully submitted that the claim 1 is patentable over the cited reference and it is requested that rejection of claim 1 be withdrawn.

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Because claims 3 and 4 depend upon independent claim 1, which for the foregoing reasons is allowable over *Kruit*, it is respectfully submitted that claims 3 and 4 are also allowable and it is requested that the rejection of claims 3 and 4 be withdrawn.

The foregoing argument is also applicable to amended independent claim 5. Therefore, it is respectfully submitted that independent claim 5 and claim 6, which depends therefrom, are patentable over the cited reference and it is requested the rejection of these claims be withdrawn

Claims 1 - 6 Are Not Are Not Rendered Obvious By *Kruit*

Additionally in paragraph 1, the Office Action in the alternative, rejected claims 1 - 6 are as being obvious under 35 U.S.C. § 103(b) in view of *Kruit*.

Each and every element of the claimed invention, and well as a motivation or suggestion to combine the elements, must be found in the references to establish a *prima facie* case of obviousness. MPEP § 2142. As stated above, *Kruit* does not describe, teach, or suggest detachably affixing the plurality of cartons to one another, such that the combined end opening width of the detachably affixed cartons are equal to the pitch of the flight bars of the packaging machine. Nor does *Kruit* describe, teach, or suggest detaching the plurality of cartons after the cartons have been loaded, as required by claim 1. Furthermore, there is no motivation to modify the invention of *Kruit* to form the invention of amended claim 1. In fact, *Kruit* teaches away from the invention of amended claim 1 because *Kruit* describes attaching two half containers to one another after each half container has been separately loaded, whereas the invention of amended claim 1 requires detaching the plurality of cartons from one another after each has been loaded.

Moreover, even if one were to modify the invention of *Kruit* to place detachably affixed containers in the packaging machine, the resulting invention would still not be the invention of amended claim 1. Rather the resulting invention would require that the half containers be detachably affixed by the side wall portions of the half containers. This would require the flight bars of the packaging machine to be increased to twice their current pitch to accommodate the attached cartons for loading using the process described by *Kruit*. Once each of the half cartons were loaded, they would have to be detached by separating the sidewall portions. The half

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containers would then be reattached such that the two half containers would be joined together by connecting the corresponding longitudinal wall portions of each half to form a single container.

Because *Kruit* does not describe, teach, or suggest either detachably affixing the plurality of cartons to one another, such that the combined end opening width of the detachably affixed cartons are equal to the pitch of the flight bars of the packaging machine or detaching the plurality of cartons after the cartons have been loaded and because there is no motivation to modify the teachings of *Kruit*, *Kruit* fails to establish a *prima facie* case of obviousness. Therefore, claim 1 is not rendered obvious in view of *Kruit* and it is respectfully requested that the rejection be withdrawn.

Because claims 3 and 4 depend upon independent claim 1, which for the foregoing reasons is allowable over *Kruit*, it is respectfully submitted that claims 3 and 4 are also allowable and it is requested that the rejection of claims 3 and 4 be withdrawn.

The foregoing argument is also applicable to independent amended claim 5. Therefore, it is respectfully submitted that claim 5 and claim 6, which depends therefrom, are patentable over the cited reference and it is requested the rejection of these claims be withdrawn.

New Claims 7 - 11 Are Patentable Over *Kruit*

The present application has been amended by adding claims 7 - 11. It is respectfully submitted that the subject matter recited by the new claims is fully supported by the specification in the present application. It is further submitted that the new claims are patentable over the references of record, and allowance of these claims is petitioned.

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CONCLUSION

It is respectfully submitted that claims 1 and 3 - 11 are in condition for allowance and that each point raised in the Second Office Action with regard to these claims has been fully addressed. Therefore, it is respectfully requested that the rejections be withdrawn and that the case be processed to issuance in accordance with Patent Official Business.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please contact John Briski at (404) 885-3141.

Respectfully submitted,

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